



U.S. DEPARTMENT of STATE

Nicaragua

Country Reports on Human Rights Practices - [2004](#)

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Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In 2001, voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as president in a generally free and fair election. The Supreme Electoral Council (CSE) is ostensibly an independent fourth branch of government; however, it was subject to political influence. The Constitution provides for an independent judiciary; however, the judiciary was susceptible to political influence and corruption.

The President is the supreme chief of the national defense and security forces. A civilian has led the Ministry of Defense since 1997; however, the Minister of Defense has limited authority over the military under the Constitution. The Ministry of Government oversees the National Police (NNP), which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy is predominantly agricultural; seafood, apparel assembly, and tourism are also important. The country's population is approximately 5.4 million. A worldwide drop in coffee prices, the lack of an adequate legal framework for investors, a fragile banking system, the high level of external and domestic debt, and unresolved property disputes stemming from massive confiscations by the Sandinista government in the 1980s limited economic growth. Government officials reported 4.2 percent gross domestic product growth in real terms during the year. While official figures were unavailable, a November 2003 Gallup poll found 41 percent unemployment. During the year, the U.N. estimated unemployment at 30 percent. The economy remains heavily dependent on foreign aid and remittances from abroad. Wages have generally kept even with inflation.

The Government generally respected the human rights of its citizens; however, serious problems remained in some areas. At year's end, there were ongoing investigations of members of the security forces accused of having committed unlawful killings. Police continued to beat and otherwise abuse detainees. Some detainees credibly alleged that they were tortured. Holding cell conditions remained harsh. Security forces arbitrarily arrested and detained citizens; however, the number of reports of arbitrary arrests and detentions decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. The new criminal procedures code took effect for all new cases at the end of the year. The judiciary is subject to political influence and corruption. The weakness of the judiciary continued to hamper prosecution of human rights abusers in many cases. The office of Human Rights Ombudsman remained vacant for 6 months due to political disputes between the two major political parties. Violence against women, including domestic abuse and rape, remained a concern. Salary discrimination against women in the labor force is endemic. Violence against children and child prostitution continued. There were several documented reports of trafficking in women and girls for the purpose of sexual exploitation. Discrimination against indigenous people also occurred. Child labor continued to be a problem. The violation of worker rights in free trade zones continued.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of politically motivated killings by government officials; however, during the year, the police received 20 allegations of unlawful killings by police officers; each of these was referred to the IG of the police (IG). In seven cases, the IG's office exonerated the police officers of any wrongdoing. In 11 other cases, the IG handed down administrative punishments. The remaining two cases remained under investigation at year's end. All homicide cases involving police were automatically referred to the courts for review, but few verdicts had been handed down by the end of the year. There were 54 reported injuries inflicted on criminal suspects by police during arrests (see section 1.d.).

On February 10, unknown persons killed radio journalist Carlos Guadamuz in what the public and media widely regarded as a political assassination (see Section 2.a.).

On April 5, police officers Fernando Escobar and Victor Manuel Jarquin shot and killed Wilfredo Alberto Mereno in Chichigalpa while he was holding a knife to the neck of and threatening to kill his domestic partner. Mereno's brother claimed that the police killed Mereno without trying to negotiate with him and maintained that Mereno had no intention of harming his partner. However, the Nicaraguan Center for Human Rights (CENIDH) mounted an investigation during which several witnesses reported that Mereno was intoxicated and violent and that the police negotiated, unsuccessfully, with him for an hour; CENIDH concluded that the police officers acted correctly. CENIDH noted, that, had the officer who fired the fatal shots been armed with a service pistol rather than the automatic rifle that many police officers carry, Mereno might have survived. Both the IG and the court system also concluded that the officers had acted properly under the circumstances.

On May 4, unknown assailants killed four police officers in Bluefields (see Section 5).

Although officer Javier Somarriba was dishonorably discharged from the police force for his June 2003 beating of Saturnino Varela Escalante, which led to Varela's death in police custody, the courts declared Somarriba not guilty in December 2003.

Both the police IG and the courts found officer Dimagio Valverde not guilty in the August 2003 killing of Marvin Jose Miranda.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law makes the use of torture a punishable crime; however there were credible reports that police beat or physically mistreated detainees, often to obtain confessions. The IG's Office recorded 1,336 complaints of mistreatment by police and found 528 to have merit. The IG punished 781 officers involved in these cases. Among the complaints were 54 instances in which police seriously wounded criminal suspects while attempting to arrest them.

The IG's Office reported that it received a total of 632 complaints of human rights violations by police officers during the year, including unlawful killings (see Section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 199 to have merit. The IG's Office punished a total of 295 officers for violation of human rights. Of those punished, the police discharged 10 officers dishonorably, remanded 63 to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On February 21, several police officers allegedly entered the home of Mayra Turcios Mojica in Masachapa without a warrant to arrest her 18-year-old son. When Turcios Mojica protested, the officers threatened to arrest her and her 13-year-old daughter. One of the police officers knocked the girl unconscious by striking her in the head. The IG investigated and concluded that the officers had been in pursuit of an armed robbery suspect and had taken him into custody outside of the Mojica household. Therefore, they did not need a warrant. The IG found no evidence of the abuse or rights violations described by Turcios Mojica and concluded that the officers had acted properly.

In April, Jose Silva of Chaguitillo accused police of shooting at, detaining, and beating him as they attempted to break up a scuffle. One of the officers reportedly wounded Silva in the leg, foot, and buttocks. Silva claimed that the police later tried to prevent him from going to a hospital. The Internal Affairs Division of the NNP ultimately determined that voluntary police officer Marvin Huerta Orellana was responsible for mistreating Silva. The NNP removed Orellana from the ranks of the voluntary police and referred the case to the local criminal court in Sebaco, which found Orellana not guilty on all charges.

No criminal charges were ever filed against officer Marcos Vasquez for the May 2003 unlawful arrest and beating of Humberto Torres Mendieta. Vasquez also successfully appealed his removal from the police for the beating and was reintegrated into the police force, albeit at a lower position.

In the case of the September 2003 rape allegedly committed by police officer Andres Montes, both the police IG and the court system found insufficient evidence to punish or convict Montes.

In the case of the September 2003 police beating of Octavio de la Rocha, the police IG concluded that one officer had used excessive force and put him on restricted duty for 30 days. The criminal case against the officer was still awaiting trial at year's end.

Prison conditions were difficult. According to government statistics, the prisons, with an official capacity of 5,358, had a total inmate population of 5,601 in December, up from 5,306 in December 2003. Detainees were held separately from convicted prisoners (see Section 1.e.).

Prison guards received human rights training from the Human Rights Ombudsman (PDDH), funded by international donors, and generally treated prisoners well.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. The Ministry of Health continued to provide some medical care, although it was unclear if this had made an impact on prisoner's access to health care. For all 8 penitentiaries and 5,601 prisoners, prison authorities maintained a staff of only 28 medical specialists, including doctors, psychologists, and nurses. Eleven medical personnel were located in Tipitapa, the country's largest prison near Managua, and there were at least two in each of the other seven facilities. Prison authorities reported that 30 percent of prisoners slept on metal bunks or mattresses on floors. Several churches and nongovernmental organizations (NGOs) donated foodstuffs, beds, and medicine to help alleviate shortfalls.

The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (7.2 cordobas). Many prisoners received additional food from visitors. Many police holding cells were dark, poorly ventilated, and unhygienic.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects regularly were left in these cells throughout their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 100 prisoners. The authorities occasionally released detainees when they could no longer feed them.

Only Managua had a separate prison for women; outside Managua, women were housed in separate wings in prison facilities and were guarded by female custodians. As of December, females made up 6.1 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure prisoners' rights.

As of December, 0.7 percent of the prison population was between the ages of 15 and 18. All youths were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

In 2002, Casa Alianza and the Human Rights Ombudsman's Office published a survey of 85 underaged detainees throughout the penal system. According to the survey, the police often failed to inform the detainees why they were being detained. Approximately half of those surveyed alleged police mistreatment, said that they were detained 3 days or more before seeing a judge, and were not aware of being assigned a defense attorney. One quarter said they were incarcerated with adults.

In July, Julio Cesar Lopez Martinez died in the Modelo prison in Tipitapa. Prison authorities initially claimed that Lopez died of cardiac arrest induced by extreme intoxication, but the medical examiner ruled that Lopez died of cerebral hematoma resulting from a severe beating. The Lopez family blamed other prisoners for the killing and accused prison authorities of ignoring threats to Lopez's life and then attempting to cover up his death. CENIDH investigated the case and concluded that Lopez's death could have been prevented and that the prison authorities had failed to protect him. Upon receipt of the medical examiner's report, the prison authorities opened an investigation into the death; however, no information on the outcome of the investigation was available at year's end.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest or Detention

Arbitrary arrest and detention by the police decreased under the new Criminal Procedures Code. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. Under the Code, a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested.

The NNP is a single, unified force responsible for law enforcement throughout the country. Although the NNP has had difficulties solving some high profile crimes and has not been immune to corruption, it is generally regarded as one of the more effective and honest state institutions. The IG's Office investigates all allegations of police abuses and has been more willing to punish offenders than have the courts. Police officers received regular human rights training.

The NNP continued to reduce the law enforcement role of voluntary police, private citizens who help fill staffing gaps in several precincts. Several voluntary police were implicated in human rights abuses during the year.

The IG remands to the court system for review all cases in which police use deadly force; however, the courts often take considerable time to process these cases and most cases never reach a final resolution (see Section 1.e.). The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the IG's office normally applies administrative restrictions, such as suspension with pay or confinement to precinct. At year's end, the IG reported that 18 officers involved in cases in which the police had used deadly force had been remanded to the courts, but had no information on how these cases were adjudicated.

The IG's Office investigated allegations of abuse by the regular police and sanctioned the offenders in many cases; however, a degree of impunity persisted. Inadequate budget support for the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, international assistance programs provided the police with extensive training during the year.

Police trainees must receive human rights instruction to graduate from the police academy and become officers. In addition, police officers must be re-certified in human rights annually. Canadian police and the Inter-American Commission of Human Rights (IACHR) trained the instructors teaching the human rights courses. The army included human rights training in its core-training curriculum (see Section 4).

Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.). During the 48 hours, the suspect does not have access to bail or to visits from family members.

The number of provisionally convicted prisoners awaiting trial continued to drop. Although the number of prisoners in jail awaiting trial was not available, statistics from the Department of Prisons indicated that 14.7 percent of all prisoners being held were awaiting final verdicts, compared with 26 percent in 2002.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary was highly susceptible to corruption and political influence. Arcane legal codes also hampered the work of the judiciary. Judges' political sympathies and their acceptance of bribes or influence from political leaders often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court and not only administers the judicial system, but also nominates all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, the Attorney General's Office, rather than the police, investigates crimes committed by and against juveniles. The military code requires that the civilian court system try members of the military charged with common crimes.

The civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict. Human rights and lawyers' groups continued to complain about the delay of justice caused by judicial inaction.

Judges were susceptible to corruption and political influence. Rulings in favor of those who are politically connected remained the most visible manifestation of judicial corruption. Both the PLC and Sandinista (FSLN) parties used the judiciary for political purposes. The FSLN especially used its control of the judiciary to impede the resolution of property claims.

In July, the Supreme Court, evenly divided between Sandinista and Liberal magistrates because of a 2003 deal between the two political parties, ended an 8-month deadlock over lower level judicial appointments and divided 16 appeals court positions among judges with political loyalties either to Arnoldo Aleman or Daniel Ortega. As in the past, the Supreme Court ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos Administration.

Also in July, the FSLN-dominated judiciary dismissed all charges or threw out the defendants' convictions in each of three different corruption cases against associates of former President Aleman. Both the media and government officials alleged that the verdicts were part of an ongoing deal between Aleman and Ortega.

In August, PLC substitute judge Moises Rodriguez convicted Alejandro Fiallos of corruption charges based solely on limited witness testimony. Local legal experts described the judge's actions as, at best, without basis, and at worst grossly illegal. At the time of his conviction and arrest, Fiallos was the Managua mayoral candidate of President Bolanos' Alliance for the Republic party and there was widespread public and media speculation that Aleman and Ortega agreed upon his conviction to remove a rival to their parties' candidates in the mayoral race. Fiallos appealed the conviction and was released on bail after 8 days' incarceration. The CSE ruled that his mayoral candidacy could continue as long as his appeal was pending. In November, after the municipal elections, a Sandinista judge rejected Fiallos' appeal and sentenced him to 45 days' imprisonment and the loss of his political rights for 1 year. Fiallos fled the country before he could be arrested and remained in hiding at year's end.

In December 2003, Sandinista judge Julia Mayorga convicted Henry Ruiz and the other members of the board of directors of the Augusto Cesar Sandino Foundation (FACS) on charges of document fraud and illicit association to commit a crime and sentenced them to 1 year's imprisonment. For years, Daniel Ortega and his allies had used the FACS as a tool of FSLN patronage, but Ruiz and a new board, elected in 2003, sought to root out the corruption in the organization. In response, the former director, Edwin Zablah, a close associate of Ortega, filed a criminal lawsuit against Ruiz and the other board members. Under the law, many civil suits can be tried as criminal cases. In December 2003, Judge Mayorga convicted the members of the board, and in July, another Sandinista magistrate, Adela Cardoza, upheld the conviction on appeal and removed Ruiz and the rest of the board from their positions. In October, three Supreme Court judges loyal to Aleman and three loyal to Ortega rejected the appeal of this decision made by Ruiz and the other defendants. The court's decision left the threat of a year of prison time hanging over the heads of Ruiz and the others and left the FACS in the hands of Zablah.

At the end of the year, former President Aleman remained under house arrest for money laundering, fraud, and other corruption charges; however, press reports indicated that Aleman and Ortega were negotiating a political deal to erase Aleman's conviction.

The Supreme Court's (CSJ) campaign to reduce incompetence and corruption in the judiciary continued during the year. Since the campaign began in 1997, the CSJ has removed 168 judges--more than one-half of the 300 judges in the system. However, the Supreme Court's disciplinary commission, which is charged with overseeing judges' ethics and conduct, was chaired by Rafael Solis, a corrupt Supreme Court justice with close ties to the FSLN.

The December 2002 Criminal Procedures Code established an accusatory, as opposed to an inquisitorial, system of justice; more transparent, it relies on prosecutors, rather than judges, to file charges. At an arraignment, a judge decides whether the available evidence merits sending the case to trial. At the trial stage, the judge takes a neutral presiding role and both sides present their cases to a jury. Initially applied only to the most serious offenses, in December the system became responsible for all new criminal cases. The new system provided greater transparency by allowing the accused greater access to the process; reduced substantially the case backlog; and shortened the average time for a verdict to 15 days as the result of better coordination between all parts of the law enforcement process. There remained a need for more personnel in the system, including public defenders.

During the year, the Napoleonic legal system continued in use for some cases. Police had to present a detained suspect before a judge within 48 hours. The judge then had to hold a preliminary hearing within 10 days. These constitutionally mandated deadlines were usually observed. If a judge ruled that there was sufficient evidence at the preliminary hearing, the suspect was sent to trial. While awaiting and undergoing trial, suspects were often held in custody. The trial consisted of hearings held by the judge to investigate the matter further, followed by a review of the written record of the hearings by a five-member jury, which would issue a final decision. Very simple cases or those with high profile or outside interest could be resolved quickly, but others languished for months. Although the legal limit for resolution was 6 months, many suspects were held without trial for longer periods.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The law provides for the establishment of a Public Defender's Office, staffed during the year by 47 public defenders, to represent indigent defendants. The district court of Managua maintained a staff of 12 public defenders. In courts other than district courts, where public defenders were not available, a more archaic system provided for the appointment of attorneys to represent indigent defendants from a standard list by the presiding judge. However, many attorneys paid a small fine rather than represent such clients because the State did not pay for attorneys for the indigent. Under the new Code, the number of indigent defendants who went to trial without an attorney decreased as the judges assumed an oversight role in court proceedings.

The country still lacked an effective civil law system. As a result, private litigants often filed their cases as criminal complaints. Often the effect of a criminal proceeding in these matters was to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. In addition, this civil-based criminal caseload diverted resources from an overburdened Prosecutor's Office that otherwise could be directed toward genuine criminal matters.

There were no reports of political prisoners.

In 2000, the Government opened property tribunals to handle cases concerning properties seized during the Sandinista regime in the 1980s. In 2002, the Supreme Court consolidated these tribunals into a single tribunal. The property tribunal has been extremely vulnerable to political pressure.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, implying the potential for sanctions against the press; however, the government did not invoke these provisions to suppress the media.

The independent media were active and expressed a wide variety of views without restriction. The news medium with the largest national audience is radio; however, polls showed that television is the primary source of news in the cities. There are 210 chartered radio stations in the country, 52 am stations and 158 fm stations; listeners receive a wide variety of political viewpoints, especially on the 74 stations based in Managua. There are 10 Managua-based television stations, 8 of which carry news programming, some with noticeable partisan political content. In addition, there are 63 cable television franchises that offer services in most large and medium-sized cities.

The Bolanos Administration attempted to standardize the way government advertising funds were allocated to the various media

outlets by implementing a system based on market share. This forced some smaller media outlets to close because the media were largely dependent upon government funding, and there was not enough private advertising to support them.

On February 10, William Hurtado, a former member of the Sandinista state security apparatus in the 1980s and a self-proclaimed militant Sandinista, shot and killed journalist and radio personality Carlos Guadamuz in Managua. A former Sandinista militant, Guadamuz had broken with Daniel Ortega and the FSLN leadership after they passed him over to be the party's 2000 mayoral candidate for Managua. Subsequently, Guadamuz used his radio program to criticize Ortega and other FSLN leaders on a wide range of issues, and they expelled him from the party. On April 19, a court convicted Hurtado and sentenced him to 18 years in prison. However, despite evidence that others were involved in planning the killing, the short trial failed to address the reasons for the murder or implicate anyone other than Hurtado.

In August, Sergio Leon Corea, the correspondent for La Prensa in Bluefields, alleged that police officers were harassing and threatening him and had broken into his home in search of information related to his reports on police involvement with drug trafficking on the Atlantic coast. Stating that the police IG's office had failed to follow up on earlier complaints he had made, Corea asked CENIDH to investigate. CENIDH's investigation was inconclusive, but the case nevertheless prompted the organization to alert the IACHR regarding the threats and dangers facing journalists in the country.

Also in August, Mirna Velasquez, a journalist for La Prensa in Managua, filed a complaint with CENIDH alleging that substitute Judge Carlos Mario Pena had blackmailed and threatened her and her family in an effort to coerce her to stop writing about judicial investigations of his actions. A series of Velasquez articles, published in 2003 when Pena was named to his position in Managua's criminal court, revealed that he was under investigation for involvement in migrant smuggling. In August, Velasquez published an article that reported that his judicial superiors were once again investigating him. Subsequently Pena allegedly informed Velasquez that he had gathered a great deal of personal information on her and her family, including information linking them to drug trafficking. Velasquez accused Pena of blackmail and conducting an illegal investigation of her and her family. Pena denied the accusations, and the case remained under investigation at year's end.

On November 9, the former PLC mayor of El Ayote, Eugenio Hernandez Gonzalez, shot and killed Maria Jose Bravo Sanchez, a journalist for La Prensa, outside of the vote-counting center in Juigalpa in front of dozens of witnesses. Hernandez was arrested shortly after the killing and at year's end was in jail awaiting trial. Friends and family of Bravo Sanchez stated that the journalist had received several death threats from prominent local PLC members prior to the municipal elections held 2 days before her killing.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

The Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission; however, many groups claimed that the process was too cumbersome and marched without registering.

For several days in May, thousands of university students organized protests in Managua, Jinotepe, Leon, Esteli, Matagalpa and other cities regarding the Government's failure to increase the education budget. During many of these protests, some of the students became violent, injuring police and bystanders, throwing Molotov cocktails and firing homemade mortars, damaging property, and disrupting traffic on roads and highways. The violence sparked confrontations with police, who often arrested violent participants, usually releasing them the next day. During each such violent protest, several persons, sometimes including police, were taken to local hospitals and treated for tear gas inhalation and other injuries. One police officer in Jinotepe was killed by a mortar round fired by protesting students. Police repeatedly affirmed the students' right to protest as long as they remained peaceful.

The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respected this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which confers it routinely.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government's requirements for legal recognition of a church are similar to its requirements for other private associations

(see Section 2.b.). A church must apply for "Personeria Juridica" (legal standing), which the National Assembly must approve. Following Assembly approval, a church must register with the Ministry of Government as an association or a foundation.

The Roman Catholic Church is not an official state religion; however, it has traditionally enjoyed a close relationship with the Government. Its relationship with the Bolanos Administration was more distant. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. At times, there have been allegations that government officials have given financial assistance to the Catholic Church. However, the predominance of the Catholic Church did not have a negative impact on the freedom to practice other religions.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom Of Movement within The Country, Foreign Travel, Emigration, And Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. The right of citizens to return to the country is not established in the Constitution, but, in practice, the Government did not restrict its citizens' return.

A 2002 amendment to the Constitution affirmed that citizens cannot be deprived of their citizenship, and that citizenship is not lost by acquiring another citizenship. However, the Constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship in other countries at least 4 years prior to their election or appointment.

Exile was not practiced. There were no reports of political violence against any citizens returning from civil war era self imposed exile.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November 2001.

The Constitution distributes power and authority among the four co-equal branches of government. The President heads the Executive Branch and appoints a Cabinet. The President is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the President to hold consecutive terms in office.

A single-chamber, 92-member National Assembly exercises legislative power. In 2001, voters elected 90 members, including 20 deputies from nationwide lists and 70 from lists presented in each of the 15 departments and the two autonomous regions. The outgoing President and the presidential candidate receiving the second highest number of votes are each given seats in the National Assembly; however, outgoing President Aleman was removed from his seat when he was convicted on money-laundering charges. Members elected concurrently with the President and Vice President in 2001 are scheduled to complete their 5 year terms on January 9, 2007. Because of political disputes with the President, at the end of the year PLC and FSLN deputies in the National Assembly had begun to enact constitutional changes that would transfer many of the President's powers to the Assembly.

According to the Constitution, the Supreme Electoral Council (CSE) is supposed to be an independent fourth branch of government. However, the CSE was highly politicized and subject to political influence. The CSE did not function properly throughout the year, paralyzed by internal political disputes and a top-heavy bureaucracy. It verged on bankruptcy, even after firing 50 percent of its workers. It could not pay the remaining employees for months in 2003, and many of them went on strike, suspending the issuance of national identity cards that are required to vote. This strike continued throughout the year. Nevertheless, CSE magistrates raised their own annual salaries by 100 percent to as much as \$155,494 (2,332,500 cordobas), roughly 60 percent more than the salary of government ministers. Many observers feared that CSE would have problems conducting upcoming municipal and national elections unless the situation was reversed. In 2002, the CSE prevented regional election results from being implemented for many months. As a consequence, the CSE retained little public confidence; in a pair of July polls, 95 percent of respondents had little or no confidence in the CSE as an institution and only 49 percent had any confidence that it could manage upcoming municipal elections in November. Those elections were in fact marred by serious problems, including poor CSE maintenance of the voting registry that made it difficult for many persons to find their correct polling precincts and prevented others from voting at all. There were also credible allegations that the CSE invalidated results in key precincts to ensure that a number of close races were won by the PLC and FSLN.

In 2001, generally free and fair national elections were held under the auspices of the CSE. Voters elected Enrique Bolanos Geyer of the PLC president with 56 percent of the vote; FSLN candidate Daniel Ortega received 42 percent. In the simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party won 1 seat. CSE reports indicated that over 90 percent of eligible voters were registered; the CSE also announced that more than 92 percent of eligible voters cast ballots.

In October, in what was widely considered a political decision, the Controller General's Office, which was controlled by supporters of former President Aleman and Ortega, released a long-awaited report accusing President Bolanos of fund raising violations during his 2001 electoral campaign. The case involved the alleged misuse of government funds and foreign government donations. The controllers charged that Bolanos refused to answer fully their questions posed during a 2-year investigation and recommended that he be fined and that the National Assembly remove him from office. Bolanos refuted the accusation and noted that of the 30 PLC leaders investigated in the case, only he had been charged with any crime. Both the Organization of American States (OAS) and foreign governments expressed concerns that the political charges against the president and the efforts to remove him from office amounted to a threat to the constitutional order. At year's end, the charges remained, and it was possible that the National Assembly could take them up at any time.

The Government continued its anti-corruption campaign during the year, but its efforts were hampered by the corrupt, politicized judiciary, which threw out a large number of corruption cases (see Section 1.e.). There was also a widespread public perception of corruption and political deal making in many state institutions, including the judiciary, the National Assembly, the CSE, the Controller General's Office (Controloria), and the Office of the National Prosecutor (Fiscalia).

No law provided for public access to government information. In practice the Government sometimes provided such access for citizens and non-citizens. Because no formal procedure for requesting information existed, when access was denied a great variety of reasons were given. No appeal procedure existed.

There are no legal impediments to the participation of women, indigenous people, and other minorities in government and politics. Women held ministerial, vice ministerial, and other senior positions in government, including 21 out of 90 National Assembly seats. In addition, 4 of the 16 CSJ justices were female, and in 2002, the Magistrates of the CSJ elected Alba Luz Ramos as president, the first woman president in the history of the Court. Women held approximately 70 percent of the judgeships in the country.

Two members of the National Assembly claimed indigenous heritage. To ensure participation by indigenous groups, political parties must include on their party tickets a certain percentage of candidates from the various indigenous populations.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The largest groups to deal with general issues of human rights were the Sandinista-influenced CENIDH and the pro-Aleman Permanent Commission on Human Rights in Nicaragua. Many such human rights groups focused most of their attention on controversial economic rights, such as access to employment, social security, healthcare, and education. Other groups focused on a particular area of human rights, such as Casa Alianza, which primarily concentrated on children's issues, and the Women's Network, which addressed domestic violence and other women's issues. CENIDH continued to conduct human rights workshops at the police academy, at various police headquarters, and with army units throughout the country. The military academy instituted human rights training as part of their core curriculum, and some military officers received internationally sponsored human rights training.

The OAS Technical Cooperation Mission (TCM) focused on the municipalities affected most adversely by the 1980-90 civil war and worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services helped maintain departmental and local peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a sustainable means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operated in areas that were without any governmental presence and served as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year.

The Ombudsman's PDDH, the autonomous government-financed human rights office, struggled with budget shortfalls and political negotiations between the PLC and the FSLN over naming a new Ombudsman to lead it after the end of the term of the first Ombudsman, Benjamin Perez, midway through the year. The office remained vacant until December, when the PLC and FSLN, ignoring the views of civil society and rejecting more qualified candidates, selected Omar Cabezas to be the new Ombudsman. Cabezas is a former Sandinista guerrilla accused of involvement in extrajudicial killings both as a guerrilla in the 1970s and as a state security official in the 1980s. Cabezas was also involved in the planning of the forced resettlement of thousands of indigenous people on the Atlantic Coast in the 1980s, which led to the deaths of hundreds of persons.

There are also special ombudsmen for children's issues, women's issues, and indigenous affairs. Under Perez' leadership, the PDDH investigated human rights violations and demonstrated independence from the administration, pursuing cases even if they contradicted government policies. However, the Aleman administration cut the budget of the Ombudsman's office by nearly

40 percent and its original budget has never been restored. The PDDH is subject to political pressure. Many of the cases it receives include economic and social issues, such as access to health, education, and social security, as well as human rights issues. Government institutions have been unresponsive in many of these cases.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, opinion, national origin, economic condition, or social condition; however, in practice, the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

Women

The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. In 2003, the most recent year for which statistics were released, the government's Women's Institute and United Nations office in Managua reported that 51,343 women suffered domestic abuse, and that women filed 49,266 charges with the police. 106 women left home out of fear of their spouses. The Women's Institute and the U.N. office also reported that 90 percent of all cases of violence and sexual abuse against women took place in the home and that 78 percent of the abusers were the fathers and stepfathers of the victims.

The law criminalizes domestic violence and provides up to 6 years' imprisonment for those found guilty of such violence. The law also provides for the issuance of restraining orders in cases in which women feared for their safety. The NNP, as well as local human rights groups, confirmed that while police sometimes intervened to prevent domestic violence, prosecutors rarely prosecuted perpetrators because they alleged that victims fail to press charges or follow through on testifying in court. Cases that reached the courts usually resulted in not guilty verdicts due to judicial inexperience and lack of legal training.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and 4 years in prison; this penalty is increased to 3 to 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of the victim. According to the most recent statistics from the NNP, the police received 1,234 rape complaints during 2003 and 1327 during the year, compared with 1,348 reported instances of rape in 2002. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape.

The police managed 24 women's commissariats, with at least 1 in each of the country's 17 departments, with a total staff of approximately 100 persons. Each commissariat is located adjacent to a police station and is supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer. However, a lack of funding limited the staff size. The commissariats provided both social and legal help to women and mediated spousal conflicts. They also investigated and helped prosecute criminal complaints and referred victims to other governmental and nongovernmental assistance agencies. The commissariats reported 10,423 cases of domestic violence and 2,245 cases of sexual infractions for 2003 and a total of 17,281 cases of domestic violence (including sexual infractions) for the year. All of these statistics are far higher than the figures for 2002. It is not clear that there was an actual increase in the rate of domestic abuse or if the soaring numbers were due to other factors, such as the increased confidence that victims have in reporting their abuse to the women's commissariats and the increased number of commissariats. Although the Government did not have shelters for victims of domestic violence, a few NGOs in a handful of cities provided short-term shelter to battered women.

By year's end, the IACHR had not ruled on the complaint of Zoilamerica Narvaez that the Government had denied her due process in 2002 by dropping sexual molestation, harassment, and rape charges against former President Daniel Ortega.

Prostitution is legal and common. According to a number of sources, including the Director of Police Criminal Investigations and the Director of Police Economic Investigations, prostitutes worked without a pimp, since prostitution is legal but pimping is not. Statistics from the women's commissariats showed few cases of pimping. A number of studies supported this, including an intensive analysis done during 2003 by the University of Central America in the tourist city of Granada, in which all the under age prostitutes interviewed told the researchers that they operated on their own. In Managua most prostitutes worked on the streets, clandestinely in nightclubs and bars, or offered sexual services in massage parlors. In several raids on these businesses, police did not find underage workers, although there were reports that some workers are below the age of 18. In towns along the Pan American Highway, women and girls sold sexual services to truck drivers and other travelers, who were often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele were sailors. Corinto was unusual in that prostitutes received medical examinations and a card certifying if they were free of disease. In addition, prostitutes in Corinto reportedly often worked together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes did not have access to medical screening or treatment. In September, the National Assembly passed a tourism law that specified that any traveler engaging in sex tourism would be prosecuted to the fullest extent of the law and specifically prohibited the promotion of sex tourism. According to the new law, any organization that promotes sex tourism will lose its operating license.

The law prohibits sexual harassment in the workplace; however, it continued to be a widespread problem. Penalties are negligible, and the Government did little to enforce the law.

Although the Constitution provides for equality between the sexes, discrimination against women persisted. According to a 2000 poll, women comprised approximately 61 percent of the public sector labor force, a number much larger than in the private sector. Salaries for male and female workers differed significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advanced more quickly than women. Women constituted the majority of workers in the traditionally low-paid education and health service sectors.

Women were generally underpaid, but the majority of women had some type of employment. A 2001 International Labor Organization (ILO) study concluded that of the 561,000 employed women, 184,000 were self-employed and 377,000 were salaried workers. More than 92 percent of women capable of employment had some type of job, higher than the national average.

There were many NGO and government programs that targeted discrimination against women, mostly by analyzing the status of women in the workplace. Among the most prominent NGOs working on women's issues were Casa Alianza, the Women's Network, and the Rainbow Network.

Children

The Government publicly expressed its commitment to children's human rights and welfare; however, government-wide budget constraints prevented it from providing adequate funding to children's programs or primary education. The National Council for the Development of Children and Adolescents, a broad group of government ministries and agencies concerned with youth, is responsible for the Government's policy on youth and developed an ambitious 10-year National Action Plan for Children and Adolescents. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a university education consortium, vastly disproportionate to funding for primary and secondary education programs. Children 15 years of age and younger made up approximately 39 percent of the population. Education is compulsory through the sixth grade, but this provision was not enforced; a 2000 Ministry of Labor survey reported that 49.1 percent of children and adolescents do not attend school. Another 18.6 percent said their work interfered with their school attendance. As a result, the survey classified 22.1 percent of the population as illiterate. According to the 2001 census, primary school enrollment rates for boys and girls were estimated at 75 and 80 percent respectively.

Juvenile offenders under the age of 17 comprised less than 1 percent of incarcerated offenders. This low figure was largely attributed to the leniency given to juvenile offenders by the Children's Code, which rarely gives jail time to juveniles. During the year, 65 minors died as a result of violent crime. During the same period, victims of rape included 259 children under the age of 13 and 627 between the ages of 13 and 17. These numbers did not include additional cases of incest (13) and statutory rape (574). There were an estimated 3,502 reported cases of physical and sexual assault committed against minors and 535 cases of child kidnapping. The NNP estimated that about 62 percent of sexual abuse victims were under the age of 18 and that 33 percent were younger than 13.

The Child and Family Law provides that juvenile prisoners cannot be held in adult facilities or be held for more than 24 hours without being charged (see Section 1.c.).

Child labor was a problem (see Section 6.d.).

Trafficking in Persons

The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was little documented evidence of a substantial trafficking problem within the country; however, there was some evidence that the country was a source area for trafficking in women and children to other countries for purposes of sexual exploitation. Child prostitution was a problem.

During the year, officials from the Government, NGOs, and other organizations characterized trafficking as a small, but growing problem throughout the region. The Government, NGOs and media periodically reported cases of individual women trafficked to brothels in Guatemala and Mexico by well organized criminal bands operating throughout Central America, although few cases were fully documented by the authorities and there were no reliable statistics on the scale of the problem. The two main types of trafficking involved women moved from rural areas to urban nightclubs and massage parlors and women from urban areas, lured to brothels in neighboring countries by offers of legitimate employment.

The law does not make prostitution illegal, though it bans its promotion. The law defines statutory rape as sexual relations with children 13 years old and younger; thus, there is no legal prohibition on prostitution by juveniles 14 and older.

The Government continued its awareness campaign with border police and immigration officials and worked with the ILO to improve the ability of officials at entry points to Honduras to identify and question young women not accompanied by family members. In addition, the Government operated a 56-member Anti-Migrant Smuggling and Anti-Trafficking in Persons Unit within the police. The women's commissariats of the police conducted a nationwide trafficking awareness campaign at high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. According to the Ministry of Labor, strip clubs were inspected several times each year to ensure that they employed no underage workers. The Foreign Ministry's consular officers in neighboring countries assisted with the repatriation of victims.

In late 2003 and early in the year, members of civil society and the Government formed a national coalition against trafficking in persons. The coalition is designed to coordinate action against trafficking in persons by training and empowering national institutions to find and combat trafficking activity. During the year, it carried out awareness campaigns, worked to improve coordination between the Government and civil society in repatriation cases, and launched a major survey designed to provide the first reliable statistics on the extent of trafficking.

In July, the Ministry of Government opened an anti-trafficking in persons liaison office as a primary point of contact for anyone interested or involved in fighting the problem. The office is also intended to coordinate the activities of the national anti-trafficking coalition. Also in July, the National Assembly ratified the 2000 U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention Against Transnational Organized Crime.

In October 2003, the National Council for Attention and Protection of Children (CONAPINA), a quasi-governmental institution composed of high-level state, non-state, and international actors and charged with national policy on children, approved a National Strategy Against Commercial Sexual Exploitation of Children and Adolescents, including trafficking of children. The highly detailed plan was integrated with CONAPINA's 10-year national policy on children and developed as a national consensus. It designates the Ministries of Family, Health, and Education as the principal governmental organizations to create and enforce policies against trafficking in persons and other forms of commercial sexual exploitation. The plan encourages the participation of local government and civil society for its implementation. It sets out 12 clearly defined objectives and 9 strategies for implementation, including prevention, victim protection, victim attention, and prosecution of traffickers. The plan also has detailed measures for evaluating progress.

Persons with Disabilities

There was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of state services. Despite some efforts, the government's role in helping the disabled was minimal and often has been criticized. Despite an ongoing lobbying campaign by NGOs, the Government has not legislated or otherwise mandated accessibility to buildings for the disabled.

The National Council for Rehabilitation of the Ministry of Health addresses the needs of the estimated 535,000 citizens with some type of disability, few of whom received medical treatment. Through its clinics and hospitals, the Government provided care to war veterans and other disabled persons, but the quality of care was generally poor. During the year, the Government launched a public relations campaign calling for greater integration of persons with disabilities in society.

The law obligates companies to contract persons with disabilities, not to let such disabilities affect salaries, and to consider disabled persons equal to other workers. However, this law rarely was enforced. Advocates for persons with disabilities contended that many national and local government officials either were unaware of the country's laws on equal opportunity or made no effort to put them into effect. They also criticized the requirement of the new national Civil Service Law that took effect during the year that all government employees be "physically and mentally able" for contradicting constitutional provisions stating that all persons are equal before the law.

National/Racial/Ethnic Minorities

Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous and ethnic groups from both the Northern and Southern Autonomous Atlantic Regions (RAAN and RAAS) sometimes linked the government's lack of resources devoted to the Atlantic Coast to ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tends to be black and Amerindian, while its religious makeup is principally composed of various Protestant denominations.

Indigenous People

Indigenous people constitute approximately 5 percent of the country's population and live primarily in the RAAN and RAAS. These regions constitute 47 percent of the national territory, but include only 12 percent of the population. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable indigenous groups are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

There were no new developments in the lawsuit brought against the Government in July 2003 by the Yatama political party before the IACHR alleging that the Government violated the rights of the Miskito and the Sumo by disqualifying Yatama in the 2000 municipal elections. However, Yatama was able to run in the November municipal elections and its candidate won in Puerto Cabezas, the capital of the RAAN.

During the year, representatives of indigenous communities that were forcibly relocated and whose property was destroyed or confiscated by the Sandinista regime in the 1980s called on the Government to provide them with some form of aid or compensation for their suffering. In return, they offered to refrain from initiating legal procedures against the state at the national and international levels. No information on any government response to the appeal was available at year's end.

Although the law requires the Government to consult indigenous people regarding the exploitation of their areas' resources, as in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic Coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. In August and September, a wide range of local government officials and NGOs in the RAAN declared a 6-day "state of emergency" in the province, shutting down schools, closing government offices and the main provincial airport. They sought to draw attention to regional claims that the central Government not only ignored the people of the Atlantic Coast when making decisions that affected them, but also neglected to maintain or improve infrastructure in the region, including roads, bridges, docks, and electricity. The protest ended when the Government signed an agreement promising to meet most of the local demands.

Government health care exists in the Atlantic Coast towns of Puerto Cabezas, Siuna, Bonanza, Rana, and Bluefields, but a majority of indigenous people in rural areas had no access to modern health care, and deteriorating roads made medicine and health care almost completely inaccessible in many communities. Critics of government policy cited extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast is engaged in subsistence fishing, farming, and mining.

On May 4, unknown assailants entered the police station in Bluefields and killed four policemen in the station. Despite the high profile nature of the incident, a handful of arrests, and rampant public and media speculation on who was responsible for the killings, by year's end the NNP had made no progress in investigating the case. Speculation was widespread that drug traffickers, perhaps with the collaboration of some elements within the police, were responsible for the killings. The incident demonstrated how the lack of a government presence, ethnic tensions, poverty, and drug-based economic opportunity have created an ungoverned space on the Atlantic Coast. International drug traffickers increasingly took advantage of the situation.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of workers to organize voluntarily in unions, and the Labor Code reaffirms this right. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (see Section 6.b.). The Labor Code recognizes cooperatives into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticized these cooperatives and assert that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions and are dominated by employers. According to the Ministry of Labor, approximately 15 percent of the work force was unionized. Unions are independent of the Government, although most were affiliated with political parties to varying degrees.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to bargain collectively, and the Labor Code reaffirms this right. The Government generally sought to foster resolution of pressing labor conflicts through informal negotiations rather than through formal administrative or judicial processes. According to the Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union.

The Constitution recognizes the right to strike; however, legal strikes were rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that the process is necessary to avoid purely political bad-faith strikes in the highly politicized environment of labor relations that has existed in the country for several decades. Observers contend that the process is inappropriately lengthy and so complex that there have been few legal strikes since the 1996 Labor Code came into effect; however, an ongoing strike of government workers against the Supreme Electoral Council went through the approval process relatively rapidly in 2003 (see Section 3). There have been several illegal strikes.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Because the administrative process of getting the Ministry of Labor to rule a strike legal is so lengthy and complex, unions sometimes declared strikes without completing the process. In these cases, the Ministry of Labor consistently ruled the strikes illegal and employers took advantage of the situation by firing the striking workers based on the Ministry's ruling.

There were several allegations of violations of the right to organize, most commonly that employers fired employees who were trying to form a union. The Ministry of Labor investigated these allegations and concluded that employers generally acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal or organize a union. Notwithstanding the legality of employer actions, the result was to weaken significantly the Sandinista Workers Central (CST), an important union politically associated with the FSLN in the Free Trade Zones (FTZ).

In July, the CST and the Sandinista Mayor of Leon settled their November 2003 disagreement over the labor rights of city workers and signed, ratified, and implemented a new collective agreement for the city's 1,500 workers.

There are 18 enterprises operating in the government-run FTZ, employing 31,446 workers. There are no special laws or exemptions from regular labor laws in the FTZs. In addition, there are 13 authorized private FTZs, with many more under construction, but the 59 enterprises currently operating in these zones employ some 30,044 workers, for a total of 61,090 workers in all FTZs. Many workers in the FTZs are represented by one of 27 different union organizations associated with 5 different labor confederations; however, less than 10 percent of FTZ workers are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic. The overwhelming majority of the workers in the FTZs are women. Fifteen thousand workers, or about 25 percent of those in the FTZs, belong to the labor NGO Maria Elena Cuadra Women's Labor Movement (MEC), which has a presence in 95 percent of the factories. While not a union, MEC is a strong independent advocate for the rights of women laborers. Union organizing efforts have encountered strong employer opposition in the FTZs. The Ministry of Labor and the management of the government-owned corporation that oversees the FTZs have worked, with some success, to settle the resulting labor conflicts.

In May, the Ministry of Labor ruled that King Yong, a Taiwanese company in the Free Trade Zones, violated the law when it fired employees in March and April for attempting to organize a CST branch. The company insisted that it had operated within the law, and the case was pending before the courts at year's end.

In December, the CST filed a series of complaints with domestic and international human rights and labor organizations alleging that between August and November the Ministry of Labor colluded with the management of the FTZ garment factory Nicotex to deny legal status to a CST branch in the factory. According to the complaint, the Ministry delayed the granting of legal status to the union and provided management with a list of employees who had signed documents for the formation of the union. The company then allegedly pressured dozens of would-be union members to renounce their signatures, leaving the union with insufficient members to qualify for legal recognition. When the Ministry subsequently denied the union legal status, the company fired its directors and several dozen other workers. The Ministry denied the charges of collusion, and the case was unresolved at year's end.

The dispute between union organizers and management at the FTZ garment factory Presitex that began in 2003 continued throughout the year. Several suits and counter-suits between the union leaders and the company remained pending before the courts, and the CST took the case to the ILO, which had not made any pronouncement by year's end.

The November 2003 lawsuit filed by the CST against KB Manufacturing in Granada for unpaid overtime between 1999 and 2002 remained pending at year's end. The CST and the company were negotiating the issue as part of their efforts to reach a collective agreement on wages and working conditions.

Fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. The maximum fine is only \$620 (10,000 cordobas), and there is no collection mechanism; companies rarely paid the penalty assessed.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor but does not specifically address forced or compulsory labor by children, and such practices occurred (see Section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation. The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. Children from 14 to 16 years of age may work legally with parental permission. The law limits the workday for such children to 6 hours and prohibits night work. In October 2003, the President signed an amendment to the labor Code to strengthen its child labor provisions. The new law made it more difficult to obtain permission for children aged 14 to 16 to work, raised fines for violators, and permitted inspectors to close facilities employing child labor. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

The Government reported that child labor occurred in both urban and rural areas. The majority worked in the informal sector, often for family ventures. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children to organizers of child beggars. Thousands of children also spent their days scavenging in garbage dumps, in an attempt to salvage items to use and sell. In rural areas, children worked on farms and in abandoned mines. Child prostitution was a serious problem (see Section 5).

The ILO, foreign governments, and a wide variety of domestic and international NGOs worked with the Ministries of Labor and

the Family to curb the most egregious cases of child labor and get the children back to school. Some of these programs targeted children working in garbage dumps and coffee farms and shifted thousands of children from work to school or prevented them from going to work in the first place.

e. Acceptable Conditions of Work

The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. Each key sector of the economy has a different minimum wage, which must be reviewed every 6 months. A new minimum wage scale took effect in May, raising the minimum wage by 8 to 10 percent, varying by sector. As a comparison, inflation for the year was 9.8 percent. The majority of workers earned well above the statutory minimum rates. By sector, the minimum monthly wage was as follows: Agriculture, \$41.53 (669.30 cordobas) plus food; fisheries, \$64.34 (1,036.6 cordobas); mining, \$77.73 (1,251.55 cordobas); industrial manufacturing, \$55.74 (897.55 cordobas); electric, gas, and water utilities \$79.62 (1,282.02 cordobas); construction, \$98.01 (1,578 cordobas); restaurants and hotels, \$60.12 (968.59 cordobas); transportation, \$79.62 (1,282.02 cordobas); banking, \$98.01 (1,578.04 cordobas); community and social services, \$60.12 (968.59 cordobas); and central and municipal government (includes health and education employees), \$54.72 (881.10 cordobas). The national minimum wage did not provide a decent standard of living for a worker and family. In every sector, the minimum wage falls below the \$141 (2,065 cordobas) that the Government estimates an urban family must spend each month for a basic basket of goods.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. This provision was routinely ignored, although employers claimed that workers readily volunteered for these extra hours for the extra pay. The Code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The Code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions and working conditions often do not meet international standards. Workers in some factories in the free trade zones have complained of poor working conditions, being forced to work unpaid overtime and of being told when they may and may not go to the toilets. During the year, the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers in identifying and resolving workplace hygiene and safety issues. The Code gives workers the right to remove themselves from dangerous workplace situations without jeopardizing their continued employment. Between January and August, 12 workers died as a result of work-related accidents. Inspectors from the Ministry of Labor investigated 7 of the 12 cases, but no results of these investigations were available.

The enactment of a 2001 law aimed at foreign companies prompted the filing of lawsuits on behalf of thousands of individuals claiming to be banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s when its use was legal. In 2002, a judge issued the first decision on one suit, a \$489 million (7.599 billion cordobas) judgment on behalf of 583 plaintiffs. None of the companies named as defendants participated in the short evidentiary process that led to this judgment, and the court, citing the law, refused to hear their legal arguments or accept contrary evidence. The court also apparently did not consider a non-binding opinion circulated earlier that year by the acting Attorney General that cited apparent constitutional flaws in the law. In May 2003, the claimants filed suit in a foreign court seeking enforcement of the decision. In October 2003, the court judge dismissed the case. In December 2003, one of the companies named as defendants filed suit in a foreign court against some of the plaintiffs, alleging abuse of power and malicious prosecution. The companies have alleged that the plaintiffs have falsified their numbers and their medical records. In February, more than 1,000 individuals claiming to be former banana workers staged a march to the capital to draw attention to their claims. At year's end, several hundred lawsuits claiming over \$10 billion (155.4 billion cordobas) in damages were pending in the country's courts and in foreign courts.